HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 19849 OF 2006

DATED: 25.9.2006

Between:

Kalatturu Karunakar Reddy

… Petitioner

and

The Government of Andhra Pradesh,
Represented by its Principal Secretary,
Irrigation and CAD Department and others

…
Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.19849 OF 2006

ORAL ORDER:

The writ petition alleges that the respondents are dispossessing the petitioner from his lands in an extent of Ac. 1.77 cents in Sy.No.649/1-2A, Chillakurm village and Mandal, Nellore District.

This land is stated to be situate adjacent to the Gudur – Waragali road and at proximity to National Highway No.5. This land and the adjacent stretches of land have developed and have become valuable now. According to the petitioner, respondents are out to lay roads over the petitioner's land for the purpose of digging a major distributory branch canal under the Telugu Ganga Project.

The petitioner alleges that land acquisition proceedings were initiated in respect of neighbouring lands but not his lands. Despite no proceedings having been initiated for acquiring the petitioner's lands, the petitioner is likely to be dispossessed on account of abuse of public office by respondents 1 to 4, is the allegation. In the circumstances, the petitioner seeks appropriate relief in this writ petition.

If the respondents 1 to 4 or any one of them seek to criminally

trespass into the petitioner's property without due process of law or the authority of law, the petitioner has a plurality of remedies available. The petitioner may use reasonable and countervailing force to resist the respondents 1 to 4 from trespassing into the property and to resist such action. The petitioner may also complain of criminal trespass by any persons including the respondents since none of them are immune to the criminal jurisdiction of this Republic. The police, on such complaint being made, conveying information as to the commission of a cognizable offence, shall be obliged to register the complaint of the petitioner and to provide appropriate level of sovereign protection to the petitioner from criminal trespass including from persons in public office. Any failure of the concerned police in this regard will constitute an abdication of statutory obligation and would expose such police officers to major disciplinary proceedings. There is yet a third remedy available to the petitioner at a proximity to his habitat namely; to seek injunctive relief before the civil court of competent jurisdiction and if warranted by the exigencies of the circumstances, to seek dispensing with the period of notice under Section 80 of the Code of Civil Procedure, 1908.

In the context of availability of the several remedies mentioned above, this court is not inclined to adjudicate upon the grievance of the petitioner in this writ petition. The writ petition is dismissed. The petitioner is at liberty to pursue any one of the available remedies including the ones mentioned above. No costs.

GODA

RAGHURAM, J

Date: 25.9.2006
cvm